



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN**

**GERALD C. MANN
ATTORNEY GENERAL**

**Honorable I. Prodeck
County Auditor
Galveston County
Galveston, Texas**

Dear Sir:

Opinion No. 9-5871

Re: Can the salary of a "stenographer-clerk" of the County Agent and a County Commissioner be paid out of the road and bridge fund?

Your letter of August 6, 1941, requesting an opinion of this department upon the above stated question has been received.

We quote from your letter as follows:

"The Budget for the year 1942 was prepared and filed in the office of the County Clerk on July 31st, 1941, as required by House Bill 768, Chapter 206, Laws of the Regular Session of the 42nd Legislature.

"In this County the Road & Bridge Committee of the Commissioners' Court and the County Engineer prepare that part of the Budget which has reference to Road & Bridge Fund expenditures and which is then incorporated into the general budget for all funds. The compensation of the County Engineer, his two assistants, foremen, tractor drivers, maintainer operators, truck drivers, mechanic, etc., that is to be paid for the year 1942 is enumerated and shown on a sheet in the budget. They have added for the first time 'Stenographer-Clerk to assist County Agent

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and Commissioners.' I fail to find any law that authorizes this expenditure out of the Road & Bridge, or any other fund, for a County Commissioner and the Farm Demonstration Agent."

Apparently under the facts stated in your letter, the "stenographer-clerk" was to be employed by a County Commissioner and the County Agent together, and the "stenographer-clerk" was to work for both of the above mentioned officials.

Section 9, Article 8 of the Texas Constitution prescribes the maximum rate of taxes for general purposes, for roads and bridges, for juries, and for permanent improvements, respectively. The money arising from taxes levied and collected for each of the above enumerated purposes are constitutional funds.

The Commissioners' Court has no authority to transfer money from one to another constitutional fund, or to expend for one purpose tax money raised ostensibly for another purpose. The immediate purpose of the provision is to limit the amount of taxes that may be raised for these several purposes, respectively, and is also designed to inhibit excessive expenditures for any of such purposes and to require that any and all moneys raised by taxation for any purpose shall be applied to that particular purpose and no other. Carrell v. Williams, 202 S. W. 504; Ault v. Hill County, 116 S. W. 359; Texas Jurisprudence, Vol. 11, pp. 609-10-11; Henderson County v. Burk, 262 S. W. 24.

The general road and bridge fund is a constitutional fund and the money of such constitutional fund must be applied to that particular purpose for which it was raised and no other. Therefore, it is our opinion that no part of the salary of the "stenographer-clerk" can legally be paid out of the road and bridge fund for services performed for the County Agent.

Yours very truly

AW:GO

ATTORNEY GENERAL OF TEXAS

APPROVED AUG 12, 1941

s/ Robert E. Kepke

By

Acting ATTORNEY GENERAL OF TEXAS

s/ Ardell Williams
Assistant

APPROVED OPINION COMMITTEE BY CCC CHAIRMAN